

Message Text

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ACTION ARA-20

INFO OCT-01 ISO-00 AID-20 PC-04 EB-11 INT-08 AGR-20 IGA-02

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FM AMEMBASSY TEGUCIGALPA

TO SECSTATE WASHDC IMMEDIATE 6049

INFO USDOC WASHDC

USCINCSO

AMEMBASSY GUATEMALA

AMEMBASSY MANAGUA

AMEMBASSY SAN JOSE

AMEMBASSY SAN SALVADOR

UNCLAS SECTION 1 OF 2 TEGUCIGALPA 0149

E.O. 11652: N/A

TAGS: EIND, EAGR, HO, US

SUBJ: DECREE LAW 103 ISSUED ESTABLISHING CORPORATION
FOR HONDURAN FORESTRY DEVELOPMENT

REF: TEGUCIGALPA 22 AND TEGUCIGALPA 130

GUATEMALA PASS ROCAP

1. SUMMARY: GOH ISSUES LAW REGULATING DEVELOPMENT OF
FORESTS AND FOREST INDUSTRY AND SETTING UP SEMI-
AUTONOMOUS CORPORATION WHICH WILL ENGAGE ITSELF DIRECTLY
IN FOREST OPERATIONS AND MARKETING. PROVISIONS SPECIFYING
COMPLETE OR MAJORITY HONDURAN OWNERSHIP IN VARIOUS
FORESTRY ENDEAVORS INCLUDED. END SUMMARY.

2. GOH ISSUED DECREE 103 ON JANUARY 11 WHICH IS THE
DETAILED EXPLANATION OF FORESTRY DEVELOPMENT POLICY
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HIGHLIGHTED IN THE JANUARY 1 MESSAGE OF GENERAL LOPEZ

(SEE REFEELS). TITLE OF DECREE 103 IS "LAW OF THE HONDURAN CORPORATION FOR FORESTRY DEVELOPMENT" (COHDEFOR) AND IT ENTERS INTO FORCE JANUARY 15, 1974. SUMMARY OF MAJOR PROVISIONS FOLLOWS. FULL TEXT TO BE POUCHED ASAP.

3. COHDEFOR IS ESTABLISHED AS A SEMIAUTONOMOUS INSTITUTION WHICH WILL BE THE EXECUTIVE ORGAN OF THE GOH FOREST POLICY AND WILL EXERCISE CONTROL ON BEHALF OF THE STATE OF ALL FORESTS LOCATED IN PUBLIC OR PRIVATE AREAS, INCLUDING PROGRAMS OF CONSERVATION, REFORESTATION, EXPLOITATION OR UTILIZATION (APROVECHAMIENTO), AND THE INDUSTRIALIZATION AND MARKETING OF FORESTRY PRODUCTS.

4. THE CORPORATION WILL MAKE USE OF THE FORESTS ACCORDING TO ANY OF THE MEANS IT MAY CHOOSE AND WILL DETERMINE ITS EXPLOITATION. PRIVATE OWNERS OF FOREST AREAS WILL HAVE THE RIGHT WHEN UTILIZING THESE AREAS TO THE PAYMENT OF A PRICE FIXED BY THE CORPORATION ACCORDING TO ITS OWN CRITERIA.

5. ATTRIBUTES OF THE CORPORATION: ARTICLE 7 STATES THAT THE CUTTING, SAWMILLING, AND IMPREGNATING OF THE WOOD AND THE EXTRACTION AND DISTILLATION OF RESINS WILL BE DONE BY THE CORPORATION IN A DIRECT MANNER OR THROUGH MIXED CAPITAL ENTERPRISES OR ENTERPRISES OF PRIVATE CAPITAL COMPOSED IN THEIR TOTALITY BY HONDURANS OR THROUGH ASSOCIATIONS OF CAMPESINOS OR COOPERATIVES. THE INDUSTRIALIZATION OF FORESTRY RESOURCES WILL ALSO BE DONE BY THE CORPORATION OR MIXED CAPITAL ENTERPRISES OR PRIVATE ENTERPRISES AS DESCRIBED ABOVE. WHEN, BECAUSE OF TECHNOLOGICAL COMPLEXITY, THE MAGNITUDE OF FINANCING REQUIRED, OR ACCESS TO FOREIGN MARKETS, THE INDUSTRIALIZATION OR MARKETING OF FINISHED PRODUCTS CANNOT BE REALIZED BY THE ENTERPRISES MENTIONED ABOVE, FOREIGN CAPITAL WILL BE ABLE TO PARTICIPATE IN AN AMOUNT NO GREATER THAN 49 PERCENT. THE MAJORITY PARTICIPATION OF HONDURAN CAPITAL CAN BE COMPOSED OF CONTRIBUTIONS OF THE CORPORATION OR OTHER STATE ENTITIES OR ENTERPRISES FORMED TOTALLY BY HONDURANS. IN THE CASE OF FOREST INDUSTRIES WHICH THE EXECUTIVE DECLARES AS BASIC TO THE

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DEVELOPMENT OF THE COUNTRY, THE CORPORATION OR OTHER STATE ENTITIES SHOULD HAVE AT LEAST 51 PERCENT OF THE CAPITAL. THE EXPORTATION OF LUMBER AND ITS INTERNAL MARKETING AS WELL AS THAT OF RESIN PRODUCTS WILL BE THE EXCLUSIVE (PRIVATIVA) FUNCTION OF THE CORPORATION. THE CORPORATION IS AUTHORIZED TO CONSTITUTE AND OPERATE INDUSTRIAL AND COMMERCIAL FORESTRY ENTERPRISES AND/OR PROMOTE THEIR DEVELOPMENT IN COOPERATION WITH THE NATIONAL INVESTMENT

CORPORATION AND THE NATIONAL DEVELOPMENT BANK.

6. REVIEW OF PERMITS: CHAPTER VIII STATES THAT
PROVISIONAL PERMITS OF SURVEY (RECONOCIMIENTO) NOW IN
EFFECT ARE CANCELLED. EXISTING PERMITS (PERMISOS) FOR
UTILIZATION (APROVECHAMIENTO) OF

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PUBLIC FOREST LANDS WILL BE REVIEWED BY THE CORPORATION
WHICH WILL NULLIFY THOSE OPERATING CONTRARY TO THE LAW.
THE CORPORATION WILL CONFORM THOSE WHICH ARE PRESENTLY
BEING CONDUCTED IN AN AUTHORIZED MANNER TO THE PRECEPTS
OF THIS DECREE OR WILL CANCEL THEM IF THIS CORRESPONDS
TO THE PUBLIC INTEREST. IN THIS LATTER CASE THE BUSINESS
INTERESTS (EMPRESARIOS) WILL BE INDEMNIFIED FOR THEIR
INVESTMENTS AND DIRECT IMPROVEMENTS. PROCESSING OF
APPLICATIONS FOR PERMITS ON PUBLIC LANDS WILL BE SUSPENDED.
CUTTING AND OTHER FORESTRY UTILIZATION BASED ON PERMITS
GRANTED BY PRIVATE OWNERS OF FORESTS AND AUTHORIZED BY
THE MINISTRY OF NATURAL RESOURCES WILL REMAIN IN EFFECT

UNTIL A DATE DETERMINED BY THE DIRECTIVE COUNCIL OF THE CORPORATION.

7. EXPORTING: PERSONS ENGAGED IN FOREST ACTIVITIES MUST PRESENT TO THE CENTRAL BANK WITHIN 15 DAYS THE EXPORT CONTRACTS WHICH ARE IN EFFECT AS WELL AS ANY OTHERS HAVING TO DO
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WITH BUYING OR SELLING OF LUMBER OR FORESTRY PRODUCTS. THE CORPORATION WILL STUDY THE EXPORT CONTRACTS AND IF THE PRICES AND CONDITIONS ARE ACCEPTABLE WILL MAKE THE NECESSARY ARRANGEMENTS WITH THE EXPORTER AND THE IMPORTER TO SUBSTITUTE (SUBROGAR) ITSELF IN THE RIGHTS AND OBLIGATIONS OF THE EXPORTER. IF THE PRICES AND CONDITIONS DO NOT CONFORM TO THOSE NORMALLY PAID IN THE INTERNATIONAL MARKET, THE EXPORT WILL NOT BE PERMITTED. THE CORPORATION CAN ACQUIRE THE LUMBER DESTINED FOR EXPORT AT THE TIME OF ENTERING INTO EFFECT OF THIS DECREE AT A PRICE WHICH IT WILL SET. THE CORPORATION CAN MAKE CONTRACTS WITH COMPANIES WHICH BEFORE THIS DECREE WERE ENGAGED IN EXPORT OF LUMBER, BY WHICH, IN EXCHANGE FOR A REASONABLE PAYMENT, THESE FIRMS WILL PROVIDE THE SERVICES OF PREPARING LUMBER FOR EXPORT OR MARKETING INTERNALLY.

8. INSTRUCTIONS TO FOREIGN INVESTORS: ARTICLES 41 AND 42 STATE THAT ENTERPRISES DEDICATED TO THE EXTRACTION OR SAW-MILLING OF LUMBER AND TO THE DISTILLATION OF RESINS NOW OPERATING MUST ACCOMMODATE THEIR OPERATIONS TO THE PROVISIONS OF THIS DECREE, ESPECIALLY WITH REGARD TO ARTICLE 7, BEFORE DECEMBER 31, 1974. FOREIGN PARTNERS OR SHAREHOLDERS WHICH HAVE MORE THAN 51 PERCENT OF CAPITAL IN COMPANIES WHICH MANUFACTURE FURNITURE, WOODEN SHEETS (LAMINAS), PRESSED PANELS OR OTHER INTERMEDIATE OR FINISHED PRODUCTS WHICH ARE NOW OPERATING MUST SELL OR TRANSFER TO THE CORPORATION, TO HONDURANS, OR TO ENTERPRISES FORMED TOTALLY BY HONDURANS NOT LESS THAN 51 PERCENT OF THE CAPITAL BEFORE DECEMBER 31, 1974.

9. FINANCING AND ORGANIZATION OF THE CORPORATION: THE INITIAL RESOURCES OF THE CORPORATION WILL BE THREE MILLION LEMPIRAS CONTRIBUTED BY THE STATE. THESE RESOURCES CAN BE ENHANCED BY ASSETS AND SECURITIES TRANSFERRED BY THE STATE; BY EARNINGS OBTAINED FROM THE INVESTMENTS UNDERTAKEN AND BY THE INTEREST GENERATED ON BANK DEPOSITIS; INTERNAL AND EXTERNAL LOANS; FINES COLLECTED FOR VIOLATION OF THIS DECREE; ETC. THE CORPORATION WILL HAVE A DIRECTIVE COUNCIL COMPOSED OF THE CHIEF OF STATE, MINISTER OF DEFENSE, MINISTER OF ECONOMY, MINISTER OF NATURAL RESOURCES, MINISTER OF FINANCE, EXECUTIVE SECRETARY OF NATIONAL PLANNING COUNCIL. THE ADMINISTRATION OF THE CORPORATION WILL BE THE RESPONSIBILITY OF THE CORPORATION.
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BILITY OF A GENERAL MANAGER NAMED BY THE EXECUTIVE.

10. USE OF PRIVATE PROPERTY: ARTICLE 29 SAYS THE CORPORATION,
THE FORESTRY ENTERPRISES SET UP BY IT AS WELL AS THE CAMPESINO
ASSOCIATIONS OR COOPERATIVES WILL HAVE THE RIGHT TO USE
LANDS PRIVATELY HELD WHICH MAY BE NECESSARY FOR THE FUL-
FILLMENT OF THEIR DUTIES. THE OWNERS WILL BE INDEMNIFIED
FOR DAMAGE TO IMPROVEMENTS OR LOSS RESULTING FROM THE
HINDRANCE TO THE NORMAL USE OF THE LAND.
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